

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

KELLIE MIDDLETON,

Plaintiff,

V.

UNIVERSITY OF NOTRE DAME, *et al.*,

Defendants.

CAUSE NO. 3:06-CV-130 RLM

REPORT AND RECOMMENDATION

On February 16, 2006, this matter was referred to the undersigned pursuant to 28 U.S.C. § 636(b)(1)(B) to conduct hearings, including evidentiary hearings, and submit proposed findings of fact and recommendations for the disposition of Plaintiff's complaint. On January 18, 2007, this Court held an in-court hearing in which Plaintiff was to appear personally. Plaintiff failed to appear, but this Court subsequently granted Plaintiff's counsel's motion to withdraw. On January 19, 2007, this Court ordered Plaintiff to indicate whether she wished to retain substitute counsel or proceed *pro se*. Plaintiff was to respond by February 19, 2007. Having received no communication from Plaintiff, this Court issued an order to show cause on February 26, 2007, directing Plaintiff to show cause for her failure to comply with this Court's order and why her case should not be dismissed for failure to prosecute her claim. As of this date, Plaintiff has still not responded to this Court's initial order or the order to show cause, despite this Court's warning pursuant to Timms v. Frank, 953 F.2d 281, 285-86 (7th Cir. 1992) and Lewis v. Faulkner, 689 F.2d 100 (7th Cir. 1982), that failure to do so may result in a dismissal of her case.

Under Fed. R. Civ. P. 41, a plaintiff's case may be dismissed for his failure to prosecute her claim or to comply with court orders. Plaintiff has failed to comply with two court orders, failed to appear personally when instructed, and has provided no written documentation explaining her inaction. Due to Plaintiff's lack of communication, this Court can only assume that Plaintiff has abandoned her case. Consequently, for the aforementioned reasons, this Court **RECOMMENDS** that Plaintiff's case be **DISMISSED WITHOUT PREJUDICE**.

NOTICE IS HEREBY GIVEN that within ten (10) days after being served with a copy of this recommended disposition a party may serve and file specific, written objections to the proposed findings and/or recommendations. Fed.R.Civ.P. 72(b). FAILURE TO FILE OBJECTIONS WITHIN THE SPECIFIED TIME WAIVES THE RIGHT TO APPEAL THE DISTRICT COURT'S ORDER.

SO ORDERED.

Dated this 27th Day of March, 2007.

S/Christopher A. Nuechterlein
Christopher A. Nuechterlein
United States Magistrate Judge

cc: Middleton